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February 2, 2017

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notice of Ex Parte Presentation, *Procedures for Commission Review of State Opt-Out Requests from the FirstNet Radio Access Network*, PS Docket No. 16-269

Dear Ms. Dortch:

On Tuesday, January 31, 2017, Michael Rosenthal of Southern Linc and Trey Hanbury and Alexi Maltas of Hogan Lovells, as counsel to Southern Linc, met with Zenji Nakazawa, Acting Public Safety and Consumer Protection Advisor to Chairman Pai. On Thursday, February 2, 2017, Trey Hanbury and Arielle Brown of Hogan Lovells met with Erin McGrath, Legal Advisor to Commissioner O'Rielly, and Trey Hanbury met with Daudeline Meme, Legal Advisor to Commissioner Clyburn.

During the meetings, the Southern Linc representatives discussed the attached presentation regarding the Commission's role in reviewing state proposals to opt out from the FirstNet deployment. In particular, Southern Linc representatives emphasized the public interest benefits of allowing state opt-out plans to include both a radio access network and a core network in order to leverage existing infrastructure and enable faster, lower cost deployment of the public safety broadband network. Southern Linc representatives also encouraged the Commission to implement reasonable procedures that allow for rapid and cooperative review of state opt-out plans and urged the Commission to not disapprove any state plan without first providing the state with an opportunity to address any Commission concerns.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically in the above-referenced proceeding. Please direct any questions regarding this letter to the undersigned.

Respectfully submitted,

/s/ Trey Hanbury

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Southern
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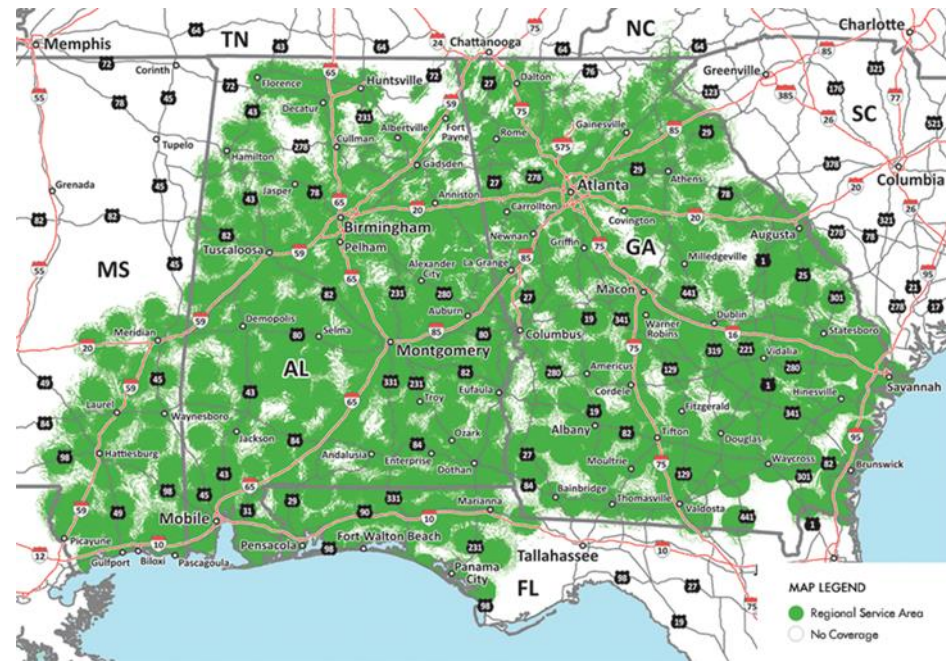
FCC Review of State Opt-Out Requests from the FirstNet Radio Access Network

Who We Are: Southern Company

- With more than 9 million customers, 44,000 megawatts of generating capacity and 1,500 billion cubic feet of combined natural gas consumption and throughput, Atlanta-based Southern Company (NYSE: SO) is America's premier energy company serving the Southeast through its subsidiaries.
- Southern Company owns electric utilities in four states, operates three nuclear generating plants, and operates the fiber optics and wireless communications companies Southern Telecom and Southern Linc Wireless.
- Market capital of \$47.70 billion.
- 2015 operating revenues of \$17.49 billion.

Network History

- In 1996 Southern Linc launched commercial service on a wireless network utilizing Integrated Digital Enhanced Network (“IDEN”) technology and using wide-area, geographic-based licenses consisting of contiguous spectrum in the Enhanced Specialized Mobile Radio (ESMR) portion of the 800 MHz band.
- The Southern Linc Wireless network is designed to meet cellular and private radio communication needs of mission-critical electric utility workers.
- Southern Linc’s hardened, redundant system has operated with unsurpassed reliability through hurricanes, tornadoes, floods and other extreme conditions.
- As a secondary mission, Southern Linc offers wireless communications service to the public within its 127,000 square-mile coverage area



State Opt-Out Plans May Include Cores

- **The Commission should allow state opt-out plans that include both a radio access network (“RAN”) and a core network.**
 - Allowing cores that are operated by states or their network partners would enable FirstNet to take advantage of existing core network elements, such as Southern Linc’s highly resilient facilities.
 - It would allow faster, lower cost deployment, without the need to build and deploy duplicative core network elements.
 - It would leverage local expertise in deploying networks to meet regional topographical and weather challenges, and leverage local relationships with public safety institutions and individuals.
 - Providing states and their carrier partners with the opportunity to monitor usage patterns and customer behavior via their own Evolved Packet Cores (“EPCs”) will enable states to target ongoing investments and improvements to their RANs.

State Opt-Out Plans Continued

- **Allowing state plans to include core networks is lawful**
 - The Spectrum Act directs FirstNet to take a holistic approach and “leverage, to the maximum extent economically desirable, existing commercial wireless infrastructure to speed deployment of the network.”
 - The Commission’s Technical Advisory Board issued guidance on interoperability in 2012 that explicitly envisioned multiple cores.
 - Nothing in the Commission’s interoperability assessment is inconsistent with multiple cores.
 - The Spectrum Act also speaks specifically to a state’s ability to provide commercial service or to lease excess capacity through public-private partnerships.
 - Absent a core operated by the state or its partner, there would be no way to assess capacity, which would frustrate this provision.

Reasonable Procedures for Review

- The Commission should implement procedures that allow for rapid and cooperative review of state opt-out plans
 - 180 days is an unduly restrictive time period for a state to issue a RFP, review highly technical proposals, and award a contract.
 - FirstNet's own experience with the National RFP demonstrates that the process is complex and may require more than 180 days to complete.
 - The Commission should permit a governor's designee to submit an opt-out notification.
 - There is no coherent reason to require the Governor personally to submit the opt-out, rather than through a designated surrogate.

Evaluation Criteria

- **The Commission's evaluation criteria should reflect its limited role in evaluating state opt out plans.**
 - The Spectrum Act provides that the Commission should assess only whether a state plan is workable and whether a state-operated RAN meets the statute's two interoperability criteria.
 - Any further review of the viability of state proposals will be conducted by other entities.
 - The Commission should not require any specific method of demonstrating compliance with the technical interoperability requirements or interoperability with the NPSBN.
 - States have strong incentives to ensure their public safety networks are interoperable with FirstNet, and self-certification by a governmental entity should be a sufficient method of showing compliance.

Opportunity to Respond

- **The Commission should not disapprove any state plan without providing the state with an opportunity to address any Commission concerns.**
 - The Commission should implement an iterative process that allows states to update their proposal in response to Commission feedback prior to any disapproval.
 - If the Commission disapproves a state plan, it should explain its rationale for the rejection in writing and provide an opportunity to correct any perceived deficiency.
 - Allowing states to cure any perceived defects is necessary to comply with the judicial review provisions of the Spectrum Act and avoid due process concerns.



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